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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/857,852	09/10/2001	Peter James Boatman	1981/2	1150

7590 09/25/2003

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EXAMINER

HOOK, JAMES F

ART UNIT PAPER NUMBER

3752

DATE MAILED: 09/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/857,852

Applicant(s)

BOATMAN, PETER JAMES

Examiner

James F. Hook

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Carlstrom. The patent to Carlstrom discloses the recited pipe comprising a core layer 1 formed of a plastic concrete material provided with aggregate material in a plastic bonding agent, and outer layers 2,3 being formed of plastic material that is reinforced, where the layers are formed as tubes.

Claims 1, 3-5, 7, 8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Schumacher. The patent to Schumacher discloses the recited pipe comprising a core layer 16 formed of a concrete material provided with aggregate material in a bonding

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agent, and outer layers 12,14 being formed of plastic material , where the layers are formed as tubes, and the method of providing a pair of plastic tubes and using them as molds, where concrete is provided between the layers, and the layers forming the mold become part of the pipe structure, the preformed layers can be made by hand or formed by rolling a sheet.

Claims 1, 2, 4, 6, 7, and 10-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Boatman (WO 9836897). The patent to Boatman discloses the recited pipe comprising a core layer formed of a plastic concrete material provided with aggregate material in a bonding agent, and outer layers being formed of plastic material , and the method of providing a pair of plastic layers and using them as molds, where plastic concrete is provided between the layers, and the layers forming the mold become part of the structure, the various plastics recited are set forth, as well as various additives, and providing extra mold members.

Claims 1, 3-5, 7, 8, 10, and 14 are rejected under 35 U.S.C. 102(e) as being anticipated by Majnaric. The patent to Majnaric discloses the recited pipe comprising a core layer 22 formed of a concrete material provided with aggregate material in a bonding agent, and outer layers 12,18 being formed of plastic material , and the method of providing a pair of plastic layers and using them as molds, where concrete is provided between the layers, and the layers forming the mold become part of the structure, there is a strengthening member 16 provided in the core layer, and the layers can be assembled on site by hand.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 6, 9, 11, 12, 14-16, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher in view of Rubenstein. The patent to Schumacher discloses all of the recited structure with the exception of forming the core layer of plastic concrete that has a short cure time, using specific plastics for the core material, and providing various additives to the core material. The patent to Rubenstein discloses that it is old and well known in the art that concrete pipes can be formed of a plastic concrete material to further protect the pipe from deterioration, and that various additives can be provided to the plastic concrete to improve characteristics and that the plastic concrete will set fast. It would have been obvious to one skilled in the art to modify the concrete material in Schumacher by substituting a plastic concrete material of various plastics therefore and to provide the concrete material with various additives to strengthen and speed up setting time as suggested by Rubenstein as such would create a more resistant pipe to the elements and would provide for a stronger pipe with better connection between layers where it is known that plastics adhere better to other plastics than to concrete.

Claims 2, 6, and 11-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schumacher in view of Boatman (WO 9836897). The patent to Schumacher discloses all of the recited structure with the exception of forming the core layer of plastic

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concrete, using specific plastics for the core material, and providing various additives to the core material. The patent to Boatman discloses all of the structure set forth above. It would have been obvious to one skilled in the art to modify the concrete material in Schumacher by substituting a plastic concrete material of specific plastics therefore and to provide the concrete material with various additives to strengthen the core as suggested by Boatman as such would create a more resistant pipe to the elements and would provide for a stronger pipe with better connection between layers where it is known that plastics adhere better to other plastics than to concrete.

### ***Conclusion***

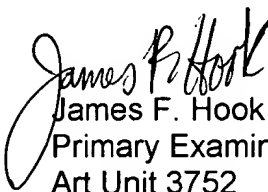
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Varnell, Wesch, Link, and Upchurch disclosing state of the art concrete and plastic concrete pipes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (703) 308-2913. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

  
James F. Hook  
Primary Examiner  
Art Unit 3752

JFH